

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2015-238-C - ORDER NO. 2015-766  
OCTOBER 30, 2015

IN RE: Application of Vitcom LLC for a Certificate	)	ORDER GRANTING
of Public Convenience and Necessity to	)	CERTIFICATE
Operate Facilities-based and Resold Local	)	
Exchange and Interexchange Services in the	)	
State of South Carolina	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of Vitcom LLC ("Vitcom", "Applicant" or "Company") for authority to provide local exchange and interexchange telecommunications services within the State of South Carolina (the "Application"). The Company requests that the Commission regulate its telecommunications services under S.C. Code Ann. Section 58-9-280.

Further, the Company requests that the Commission regulate its local retail telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business interexchange service offerings under modified alternative regulation as set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-166-C.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280 and the Rules and Regulations of the Commission. By letter, the Commission

instructed the Applicant to publish, one time, a prepared Notice of Filing in a newspaper of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Subsequently, counsel for SCTC filed with the Commission a stipulation between the SCTC and the Applicant. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company, provided the conditions contained in the stipulation are met. The stipulation is approved and attached as Order Exhibit 1.

In a letter dated September 24, 2015, C. Lessie Hammonds, Esquire, representing the South Carolina Office of Regulatory Staff ("ORS"), stated that the ORS had reviewed Vitcom's Application, that the ORS did not oppose the Commission's granting the Application and requested to be excused from the hearing on this matter. A Memorandum of Understanding between the ORS and Applicant was introduced into the record as Hearing Exhibit 2. By Order No. 2015-67-H, the ORS was excused from attending the hearing. Upon motion of the Applicant, approved by Order No. 2015-61-H, the Hearing Examiner ordered that the witness for the Applicant might appear and testify by videoconference.

A hearing was commenced on October 8, 2015, at 10:30 a.m., by videoconference in the Commission's offices. The Honorable David Stark, Hearing Examiner, presided. Scott Elliott, Esquire, represented the Company. Zalmen Ashkenazi, President of the Company, appeared via video conference and testified in support of the Application.

According to the record, Vitcom is a New York limited liability corporation. Mr. Ashkenazi testified that the Applicant is seeking certification in South Carolina. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. According to Mr. Ashkenazi, Vitcom seeks authority to provide telecommunication services throughout the State of South Carolina. As set out in the record, Vitcom provides interstate and intrastate resold and facilities-based /UNE telecommunications services.

Vitcom will execute all necessary resale and interconnection agreements with the ILECs in whose territory it seeks to provide service prior to offering service in South Carolina. Mr. Ashkenazi further testified regarding the managerial experience of the Applicant and stated that Vitcom had substantial financial resources to ensure the viability of the Company.

Mr. Askenazi testified that granting Vitcom's Application will introduce a telecommunications service provider committed to providing high-quality, innovative, and technologically advanced services that will further increase telecommunications competition in the State of South Carolina. He opined that the Commission's granting of the Application is therefore in the public interest.

Mr. Ashkenazi stated that the Company will abide by all applicable Commission rules, regulations and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications services in South Carolina.

The Applicant has requested certain waivers of Commission regulations. In its Application, the Company states that it does not intend to offer residential local exchange services but proposes only to provide business services. However, the Company agrees to post bond if it later decides to provide retail residential local exchange services in South Carolina, and consequently requests a waiver of 10 S.C. Code Ann. Regs. 103-607 that it post a bond. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"). Additionally, the Company seeks a waiver of 10 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC databases into the master customer database of the local exchange carrier. The Applicant requested that the Company be granted a waiver of 10 S.C. Code Ann. Regs. 103-610, so that the Company be permitted to maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters at its principal place of business in New York. Lastly, the Company testified that, since the Applicant's local exchange calling areas will initially mirror the service area of the incumbent local exchange carriers, the

Applicant requested a waiver of the map filing requirement of 10 S.C. Code Ann. Regs. 103-612.2.3.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. The Company is a duly organized corporation which exists under the laws of the State of New York and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. The Company may use state-of-the-art technology, including interconnected voice over the Internet protocol ("IVoIP") technology, to provide its local exchange and interexchange telecommunications services in South Carolina.

4. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1).

5. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).

6. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

7. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

8. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5).

9. Following execution of a Stipulation with Intervenor, South Carolina Telephone Coalition ("SCTC"), the SCTC withdrew its opposition to the Application.

10. The ORS was permitted to be excused from the hearing and the fact that it did not oppose granting the Application herein is duly noted.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the Company's provision of service using IVoIP technology does not, in any way, change or diminish the Commission's authority to regulate the Company in accordance with state law.

6. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

7. Based on the above findings of fact, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. In addition, the Company is granted authority to provide intrastate interexchange services.

8. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications, LLC by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right, within thirty (30) days, to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

9. The Commission adopts a rate design for the long distance services of the Company consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$.035 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further order of the Commission.

10. Should Vitcom offer residential interexchange services in the future, the Commission adopts a rate design for Vitcom for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

11. Should Vitcom offer residential interexchange services in the future, Vitcom shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Vitcom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the



Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications Corporation, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code § 58-9-540 (Supp. 2014).

12. We conclude that the Applicant's request for waiver of 10 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of the USOA. In addition, we grant waiver of 10 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory. We grant a waiver of 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory. Lastly, we grant the Company a waiver of 10 S.C. Code Ann. Regs. 103-607 that it post a bond since Vitcom does not intend to provide residential local exchange services at the present time.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

1. A Certificate of Public Convenience and Necessity is granted to Vitcom LLC to provide competitive local exchange and interexchange telecommunications services.

2. The terms of the Stipulation attached as Order Exhibit 1 between the Company and the SCTC are approved and adopted as part of this Order. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. If it has not already done so by the date of issuance of this Order, the Company shall file its revised tariffs utilizing the Commission's e-filing system for tariffs within thirty (30) days of receipt of this Order. The revised tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. To the extent the Company resells services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See. 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462, and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Vitcom shall comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company

to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. A web link to E-911 information is available through the "Quick Link" column on the Commission's website ([www.psc.sc.gov](http://www.psc.sc.gov)). By this Order and prior to providing voice or dial-tone services within South Carolina, Vitcom is directed to contact the 911 coordinator in each county, as well as the 911 coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

9. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at [www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx](http://www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1st.

Commission gross receipts forms are due to be filed with the Commission and with the ORS no later than August 31st of each year. The proper form for filing gross

receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx](http://www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx); the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx](http://www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx). This worksheet provides the ORS with information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is to be filed annually, no later than July 1st, with the ORS.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and the ORS in writing the name of authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Vitcom shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at [www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx](http://www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx); this form shall be utilized for the provision of this information to the Commission and the

ORS. Further, the Company shall promptly notify the Commission and the ORS in writing if the representatives are replaced.

11. The Company shall conduct its businesses in compliance with Commission decisions and orders, both past and future.

12. By its Application, the Company requested a waiver of 10 S.C. Code Ann. Regs. 103-631. In lieu of publishing local directories, the Company informs the Commission that it will contract with the incumbent LECs to provide the Company's customers with directory listings, as well as to undertake the distribution of directories. The Commission finds the Company's request reasonable and grants the requested waiver of the application of 10 S.C. Code Ann. Regs. 103-631. Further, the Company is granted a waiver of 10 S.C. Ann. Regs. 103-610, requiring the Company to maintain its financial books and records within the State of South Carolina. The Company is hereby granted permission to maintain its financial books and records at its principal place of business. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation. The Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 10 S.C. Code Ann. Regs. 103-612.2.3. Finally, we waive the requirement that Vitcom shall file a bond pursuant to 10 S.C. Code Ann. Regs. 103-607 until such time as Vitcom provides retail residential local exchange service in South Carolina.

13. The Stipulation between the SCTC and Vitcom is hereby approved.

14. This Order shall remain in full force and effect until further order of the Commission.

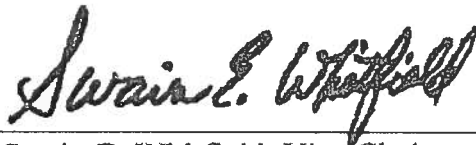
BY ORDER OF THE COMMISSION:



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Nikiya Hall, Chairman

ATTEST:



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Swain E. Whitfield, Vice Chairman

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2015-238-C

Re: Application of Vitcom, LLC for a )  
Certificate of Public Convenience )  
and Necessity to Operate Facilities- )  
Based and Resold Local Exchange )  
and Interexchange )  
Telecommunications Services in the )  
State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Vitcom, LLC ("Applicant") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Applicant's Application. SCTC and Applicant stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Applicant, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Applicant stipulates and agrees that any Certificate which may be granted will authorize Applicant to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Applicant stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Applicant stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Applicant provides such rural incumbent LEC and the Commission with written notice of its



intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Applicant acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Applicant stipulates and agrees that, if Applicant gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Applicant will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Applicant acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Applicant, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Applicant agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.


9. Applicant hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 24<sup>th</sup> day of August,

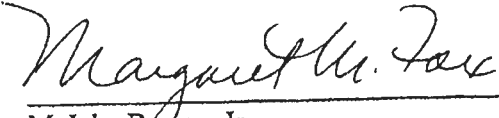
2015.

Vitcom, LLC

South Carolina Telephone Coalition

  
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Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Chester Telephone Company, d/b/a TruVista  
Comporium, Inc. (f/k/a Rock Hill Telephone Company)  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company, d/b/a Comporium  
Home Telephone ILEC, LLC d/b/a Home Telecom  
Lancaster Telephone Company, d/b/a Comporium  
Lockhart Telephone Company, d/b/a TruVista  
McClellanville Telephone Company (TDS)  
Norway Telephone Company (TDS)  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
PBT Telecom, d/b/a Comporium  
Ridgeway Telephone Company, d/b/a TruVista  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company (TDS)  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company (TDS)